



BoardLink

Your connection to effective bar governance

BoardLink – Your Connection to Effective Bar Governance Fall 2012, Issue 13

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For the Good of the Order

There's simply no substitute for the good work of committees and sections. They make our bar associations and foundations vibrant and productive and personal. Still, we regularly hear stories about an entity that went off the rails or, more commonly, the entity that just sort of disappeared. So, how do we both prevent the headaches and help these entities thrive? This issue of *BoardLink* focuses on the critical role our boards have in preparing, overseeing and supporting our entities and their leaders. I hope you take away a few strategies from [this issue's Main Motion column](#) to help strengthen your bar's own committees and sections.

I also encourage you to check out the November-December issue of *Bar Leader*, which will address challenges relating to sections. It will be available [here](#) next week.

As always, we appreciate your feedback.

Sincerely,

Alice Bruno

Chair, ABA Standing Committee on Bar Activities and Services

Please forward this issue to your board and to your young lawyer leadership, and encourage them to subscribe.

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This Quarter's Main Motion: Cultivating Excellence among Committees and Sections

We all know that committees and sections are integral parts of our bars' ability to deliver value to members and address challenges facing the profession and the community. These "communities within the community" are responsible for some of our bars' most highly valued functions. They deliver practice-related content. They give members an opportunity to interact with each other around a particular topic or problem. They provide outlets for service to the profession and community. Researchers have demonstrated time and again that association members who participate in committees and sections tend to be more satisfied and renew at a much higher rate.

But let's be clear. No matter how much value these entities bring and no matter how much latitude they have historically enjoyed, they are still the board's responsibility. It doesn't matter if the committee chair has served 20 years or if the section's budget is enormous. To quote [Carver](#), "The governing board is always positioned at the top of the organization. *Corporate board, board of directors, board of trustees, board of regents*, and similar titles denote groups that have authority exceeded only by owners and the state. The governing board is as high in the formal structure as one can go. Its total authority is matched by its total accountability for all corporate activity." That means that our boards have a legal responsibility to ensure that bar entities operate in a manner that is consistent with association's bylaws, policies and values. So, when a chair "goes rogue," it's the board that must have the will to address the problem. To reiterate a bit of wisdom from the [last issue of BoardLink](#): policies don't enforce themselves.

At the same time, bar entities are most successful when they're given an opportunity to make their own way. So, that's the board's bottom-line challenge. How can the board effectively provide entities with a charge and parameters, create an environment that facilitates success and then get out of the way? It's not always an easy assignment, particularly with a continually changing set of players.

As we know, many different mechanisms have to work well to facilitate excellence in committees and sections. We'd like to highlight five that deserve a little extra attention.

1. Get the timing right

Appointments typically occur just before the beginning of the association year and, certainly, a single round of appointments is a terrific convenience. However, we force all these very differently-shaped feet into the same shoe. If the association year changes in August, for example, are chairs with major responsibilities in the early fall at a disadvantage? Are we curbing their ability to be creative because they don't have enough time to prepare?

Give some thought to whether the current timing works for each of your entities. First, does the appointment process generally occur early enough to give chairs time to plan? Then, are there individual entities that would benefit from an alternative schedule or a multi-year term for their chairs?

Similarly, we hope chairs will be creative, but then we often saddle them with virtually the same budget that has existed for years. Consider the timing of your budget process and give incoming chairs an opportunity to propose adjustments. Alternatively, set aside a small pool of funds for unbudgeted innovations.

2. Ensure the best people are in charge

We can't overemphasize the importance of selecting a qualified chair. The strength of the chair is absolutely central to an entity's success, and an ineffective chair actually can set an entity back. Those overseeing the appointment process should ask:

- What kind of work are we expecting from this particular chair?
 - Is the role largely organizational, setting up meetings and communicating with members? Does the candidate have good organizational skills and follow-through?
 - Is the work about exploring an issue or solving a problem? Does the candidate have good analytical skills?
 - Will the work require a final report? Can the candidate write well?
 - Does the role require an ability to build and sustain relationships? Is interpersonal communications one of the candidate's strengths?
 - Will the role likely require negotiation? Is the candidate able to find compromise?
 - Is special expertise necessary? Does the candidate have it?
 - Will a significant amount of delegation be necessary? Can the candidate keep a team on track?
- What's the time commitment? Is the individual realistically able to dedicate that time?

It's rare that an individual would be selected as chair without anyone having a sense of her capacity, but sometimes we're not familiar with specific skills like an individual's writing ability or follow-through in a volunteer role. It's worth spending the time to find out. If that person lacks a skill critical to success, it's potentially a year lost. For key posts, consider:

- Interviewing the candidate directly
- Soliciting input from the candidate's work colleagues
- If he's been involved in other roles in the organization, ask staff or the board liaison
- If he's been involved in other nonprofits, solicit input from that organization's knowledgeable volunteers or staff

With entities like sections that often select their own leaders, it's imperative to have a training ground for the up-and-comers. Establish a vice-chair role or small council that has real responsibilities. This practice works well for committees, too. It's a terrific way to develop leaders and enhance continuity within the entity. We're also seeing more chair orientations include leadership development modules like team management, meeting management and the like. At the end of the association year, ask committee members to evaluate their entity's activity. Include a question about the efficacy of the chair and vice-chair. Provide lackluster leaders with additional coaching or replace them.

3. Clarify the objectives and the parameters for achieving them

In the last ten years, our organizations have done a much better job of establishing and communicating a clear charge and set of objectives for committees and sections, but there's still room to improve. If there's a minimum level of activity you'd like to see from committees and sections, has the board articulated that? Have you talked to chairs about where there should be continuity from the work of previous committees and where there's room for change? Have you worked with chairs to help establish a calendar or action plan for the year?

While well-developed sections will establish their own objectives, we shouldn't gloss over the rules that all chairs need to abide by as they carry out their responsibilities. Often chairs receive these in the form of a [manual](#), but sometimes there's a formal orientation session. We find that if chairs have an opportunity to discuss the rules and parameters, they are much more likely to be observed.

Orientations regularly address nuts and bolts policy information like reimbursement, and issues like what actions need board approval. However, don't forget to bring entity leaders up to speed on [broader policy and legal risks](#) that may affect them such as:

- The president is the only individual who speaks for the organization (in most organizations)
- Avoiding commitments outside their scope of authority (risk relating to apparent authority)
- Avoiding any activity that could be construed as an antitrust violation

In what context does the bar communicate this important information? Some bars find it most useful to meet with chairs individually or in small groups to discuss the upcoming term. Those meetings might include the president, the executive director and the board liaison, or some combination. As we mentioned, some bars hold an orientation for the entire group. Some do both. Examples of committee and section policies and orientation resources can be found [here](#).

4. Communicate regularly

It isn't enough to give chairs their charges and send them on their way. Establishing a regular channel for communication between the board and entities is crucial to managing that ongoing relationship. Some organizations ask every board member to take on a liaison role. Others find it's more effective for the officers or executive committee to take on that responsibility. The [liaison serves several important functions](#): as a resource and advisor to the committee or section and as a first-line of information to the board about the entity. Through the liaison, good ideas can be cultivated and supported by the board. Activities that may conflict with organizational policy can quickly be identified and modified, as necessary.

5. Minimize the bureaucracy, provide support and share best practices

While a few bars have too few parameters (sections with separate checking accounts and the like), many more organizations burden chairs with an astonishing array of paperwork and hoops to jump through. Sometimes it seems we're not much guided by the idea that we should use volunteer time and expertise prudently. So, eliminate the long, narrative committee reports and instead ask for three bullet points that summarize the group's activity and accomplishments. Don't ask chairs to pick out the napkins.

To the previous point, wherever you reasonably can use staff, do so. That means you may need to allocate more staff to support your organization's entities. Given the value of committees and sections, we think this can be a strategic investment. Whenever possible, eliminate the administrative work that falls on volunteers and allow them to spend their time making more substantive contributions, an effort that also will be more meaningful to them.

Finally, consider creating a forum where chairs can share information amongst themselves. Give them an opportunity to share what's been working, where the hurdles continue to be and what their plans are. They will discover solutions from each other and develop valuable partnerships in the process.

Tales from the Boardroom: Team-Building, but at What Price?

Tales from the Boardroom case studies are fictional examples created by the editor to illustrate common governance challenges.

The new state bar president knows there will be difficult issues to tackle in the upcoming months, and wants to organize a fun, memorable event to kick off his term. The board's first meeting is in the spring, and the president has decided to secure a luxury box at the local ballpark. The board will conduct its meeting during

the day, and then will adjourn to the stadium for drinks, dinner and the game. Like many organizations, the bar has suffered some in the down economy. During the meeting, the board will be tackling several difficult financial questions. It's likely that the board will vote to make some cuts to reduce the budget. Several board members are sensitive to the appearance of extravagance in the face of financial challenges, but everyone is reluctant to challenge the president's personal plans.

What would you do?

It's difficult to be the lone voice on an issue like this, but that's precisely why you were selected: to exercise independent judgment and ask questions, as part of your [Duty of Care](#). As a fiduciary for the organization, I might want to gather some additional information. Questions that come to mind include:

- Is this event typical or consistent with other board events organized in the past?
- What's the budget for board/governance expenditures? Are there limits? Does this event fall within that budget or those limits?
- Is this event being underwritten or offset in some way?

If my concerns are not ameliorated by the answers to these questions, I would consider sending a private message to the president, outlining them. I also might ask that the board address the expenditure in the context of the budget discussions. Should the board have spending limits for its activities? If limits do exist, are the current limits still appropriate given the organization's overall financial picture? If these other efforts to draw attention to the issue are unsuccessful, another option might be to send a formal letter, copying the board or executive committee. Whatever your tactics, be sure to speak up.

Have you run into a similar situation? What did you do? Share your advice by contacting the editor at jennifer.lewin@americanbar.org.

This Quarter's Best Board Practice

Some bars have found that including chairs in planning initiatives can be an effective way to communicate organization-wide goals and provide chairs with a more expansive view of the organization's activities. Chair participation can take a variety of forms. At a minimum, solicit chairs individually for their input on the future of the organization. The bar also may want to consider convening a series of focus groups with chairs to discuss challenges and opportunities. Some bars also invite some or all chairs to participate in the planning retreat, if that is part of the planning process. It can be an effective way to reinforce the connection between the work of the individual entity and the overall mission of the organization.

Write me at jennifer.lewin@americanbar.org with your bar's good practices and suggestions. We'll share them in the next issue.

Other Board Resources

General

- [Oregon State Bar Committee Assignments](#)
- [Committee/Section Planning Worksheet](#)
- [Committee Report Card](#)

- [Washington State Bar Association Duties of Chairs, Staff Liaisons, and Boards of Governors Liaisons](#)

Handbooks, Policies and Orientation Materials

- [Oregon State Bar Bar Leader Handbook for Committees 2012](#)
- [Oregon State Bar Bar Leader Handbook for Sections 2012](#)
- [Oakland County Bar Association Committee Chair Handbook 2011-2012](#)
- [Washington State Bar Association 2010-2011 Committee Chair Orientation Booklet](#)
- [Contra Costa County Bar Association Section Leaders 2012 Handbook](#)
- [North Carolina Bar Association Financial Policies RE Sections](#)
- [New York State Bar Association Section Financial Policy](#)
- [Oregon State Bar Standard Section Bylaws](#)
- [Colorado Bar Association Orientation 2011 \(with video\)](#)
- [State Bar of Wisconsin Guidelines for Effective Meetings](#)

Sample Policies & Resources from [Bob Harris, Nonprofit Center](#)

- [Apparent Authority & Sample Policy](#)
- [Antitrust Compliance Policies and Procedures](#)
- [Antitrust Sample Statement](#)
- [Committee Ground Rules](#)
- [Practical Tips for Committee Chairs](#)

Your Feedback

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